IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.15063 OF 2004

For Approval and Signature:

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PURSHOTTAM HIRABHAI SINDHI

Versus

HABIB MALEKBHAI SIPAI

Appearance:

1. Special Civil Application No. 15063 of 2004

MR. KIRTIDEV R. DAVE for Petitioner

MR. P.S. GOGIA for Respondent

CORAM : HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 17/02/2005

ORAL JUDGEMENT

1. Rule.

Mr.P.S.Gogia, learned Advocate, appears and waives service of Rule on behalf of the respondent.

At the request of Mr.Kirtidev R.Dave, learned Advocate for the petitioner, and with the consent of

Mr.P.S.Gogia, learned Advocate for the respondent, the matter is taken up for final hearing today.

2. The petitioner, an owner of a bakery, is before this Court being aggrieved of Judgement and Award dated 12th January, 2004 passed by the learned Presiding Officer, Labour Court, Surendranagar in Reference (LCS) No.119 of 1998 and Judgement and Order dated 12th October, 2004 passed in Miscellaneous Application No.4 of 2004.

3. The aforesaid Reference of the respondent was partly allowed by the judgement and award under challenge ex parte and, therefore, the petitioner filed the aforesaid Miscellaneous Application for setting aside the ex parte award and for permitting the petitioner to contest the matter (Reference) on merits. The learned Presiding Officer of the Labour Court, Surendranagar, has rejected the Miscellaneous Application and hence, the petitioner is before this Court as the judgement and award in the Reference stares in his face.

4. This Court, by Order dated 23rd November, 2004, issued Notice, returnable on 14th December, 2004 on condition that the petitioner shall deposit before this Court an amount of Rs.10,000=00 by way of probable cost. That being so and taking into consideration the fact that the reference has remained uncontested, and the parties are blaming to each other for petitioner not getting an opportunity of hearing, it is deemed fit that the judgement and award in the reference and the order in the Miscellaneous Application be quashed and set aside so as to see that interest of justice is served. However, the respondent-workman is required to be compensated for the costs of the litigation. Order accordingly. It is directed that the Office shall pay the amount deposited by the petitioner, by an account payee cheque, in the name of the respondent-workman as early as possible, but not later than 25th February, 2005.

At the joint request of the learned Advocates, on an assurance given by them that their counterparts will extend full cooperation to the learned Judge of the Labour Court so as to see that the matter is disposed of as expeditiously as possible and will not be seeking any avoidable adjournment, the learned Presiding Officer of the Labour Court is directed to decide the matter giving top priority to the same so as to see that the matter is heard and decided by 30th June, 2005.

In the result, the petition is allowed. Rule is made absolute.

(Ravi R. Tripathi, J.)
kamlesh*